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## MEMO ENDORSED

September 8, 2023

Via ECF

The Honorable Edgardo Ramos  
United States District Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007-1312

The conference is adjourned to November 3, 2023 at 11 a.m. The parties are reminded to dial 877-411-9748 and enter access code 3029857# when prompted. SO ORDERED.

  
Edgardo Ramos, U.S.D.J.  
Dated: September 11, 2023  
New York, New York

**Re: *Trammo, Inc. v. David Smothermon*, 22 Civ. 04446 (ER)**

Dear Judge Ramos:

We represent Defendant David Smothermon in the above-captioned action and write jointly with counsel for Plaintiff Trammo, Inc. (“Trammo”) to respectfully request an adjournment of the status conference currently scheduled for September 13, 2023.

As Your Honor is aware, Trammo’s allegations in this case are related to facts alleged in a criminal case against Mr. Smothermon that is currently pending before Judge Hellerstein, *United States v. Smothermon*, No. 19 Cr. 382 (AKH). Prior to the Supreme Court’s decision in *Ciminelli v. United States*, 598 U.S. 306 (2023), this Court stayed this action because of the potential impact of *Ciminelli* on Mr. Smothermon’s criminal case. (ECF No. 19). After the Supreme Court decided *Ciminelli* in May and Judge Hellerstein set a status conference for late-July, this Court granted the parties’ request for a status conference thereafter, so that the parties here could know the likely post-*Ciminelli* trajectory of the criminal case in considering appropriate next steps in this action. (ECF Nos. 22, 23). However, Judge Hellerstein adjourned the previously scheduled July conference to September 27, 2023 because of ongoing discussions between the parties in the criminal case. Accordingly, the parties in this action jointly request that this Court adjourn the September 13 status conference to the last week of October 2023, approximately one month after the criminal case conference.

We thank the Court for its continued consideration.

Respectfully submitted,

/s/ Daniel J. O’Neill

Daniel J. O’Neill

cc: Counsel of Record (via ECF)